

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, JUNE 13, 2005
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:09 p.m. Mayor Murphy recessed the meeting at 3:16 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:30 p.m. with Deputy Mayor Zucchet not present. Mayor Murphy recessed the meeting at 3:32 p.m. to convene the Budget Review Committee. Mayor Murphy reconvened the regular meeting at 8:39 p.m. with Deputy Mayor Zucchet and Council Members Maienschein and Inzunza not present. Mayor Murphy adjourned the regular meeting at 8:41 p.m. to reconvene the Budget Review Committee.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

Clerk-Abdelnour/Maland (gs)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-not present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-not present
- (6) Council Member Frye-not present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-not present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by City Clerk Chuck Abdelnour.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Madaffer.

FILE LOCATION: MINUTES



ITEM-30: Old Globe Theatre Day.

MAYOR MURPHY'S AND COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-1275) ADOPTED AS RESOLUTION R-300512

Recognizing the Old Globe Theatre for being an invaluable cultural resource in San Diego and for greatly heightening San Diego's artistic reputation nationally and abroad;

Proclaiming June 18, 2005, to be "Old Globe Theatre 70th Anniversary Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:19 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Mayor Murphy. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-not present, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-31: Kate Griffith Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1274) ADOPTED AS RESOLUTION R-300513

Recognizing the vital services that Kate Griffith has provided the citizens of San Diego;

Proclaiming June 14, 2005, to be "Kate Griffith Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:23 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-32: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

05/09/2005 – Special Meeting
05/09/2005
05/16/2005 – Special Meeting
05/16/2005
05/17/2005
05/23/2005
05/24/2005

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:11 p.m.)

MOTION BY YOUNG TO APPROVE. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-not present, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

CLOSED SESSION:

CS-1 *George Amancio et al. v. City of San Diego*
Claim No. LP05-0705-0728

REFERRED TO CLOSED SESSION OF TUESDAY, JUNE 14, 2005

DCA assigned: A. Jones

This is a claim for a sewer main backup which flooded two apartments of a four-unit complex at 3730 Swift Avenue. In closed session, the City Attorney will brief the Mayor and City Council on the matter and discuss a possible settlement.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:14 p.m. – 3:15 p.m.)

Mayor Murphy closed the hearing.

CS-2 *Kari Livingstone, et al. v. City of San Diego*
Claim Nos. LP05-7773-0596; LP05-7773-0597

REFERRED TO CLOSED SESSION OF TUESDAY, JUNE 14, 2005

DCA assigned: A. Jones

This is a claim for a water main break which caused flood damage to the real and personal property of residents on Galveston and Tonopah Streets in Bay Park. In closed session, the City Attorney will brief the Mayor and City Council on the matter and discuss a possible settlement.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:14 p.m. – 3:15 p.m.)

Mayor Murphy closed the hearing.

CS-3 *Border Business Park v. City of San Diego*
Appellate Case No. D039225; SDSC Case No. GIC 692794
Otay Acquisitions v. City of San Diego
SDSC Case No. GIC 753247
National Enterprises, Inc. v. City of San Diego
SDSC Case Nos. GIC 791407; GIC 805465

REFERRED TO CLOSED SESSION OF TUESDAY, JUNE 14, 2005

ACA assigned: L. Girard

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego [City] regarding the Border Business Park in Otay Mesa. The Border Business Park case resulted in a jury verdict against the City which is now on appeal. The National Enterprises and Otay Acquisitions cases are currently awaiting trial in the Superior Court. The Border Business Park case has been referred to a mediation process in the appellate court. In closed session the City Attorney will report on the status of the mediation and request appropriate direction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:14 p.m. – 3:15 p.m.)

Mayor Murphy closed the hearing.

Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(c):

CS-4 Number of Cases: One

REFERRED TO CLOSED SESSION OF TUESDAY, JUNE 14, 2005

DCA assigned: D. McGrath

In Closed Session the City Attorney will advise Mayor and Council on the potential initiation of litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:14 p.m. – 3:15 p.m.)

Mayor Murphy closed the hearing.

- * ITEM-50: The 2004 California Electrical Code and Associated San Diego Municipal Code Amendments.

(See City Manager Reports CMR-05-077 and CMR-05-133, this report was not available at Committee.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2005-125) INTRODUCED, TO BE ADOPTED ON MONDAY,
JUNE 27, 2005

Introduction of an Ordinance amending Chapter 12, Article 9, Division 3, of the San Diego Municipal Code by amending Sections 129.0303 and 129.0307, by amending Chapter 14, Article 6, Division 1, by amending Sections 146.0103, 146.0104, 146.0105, and 146.0106, by amending Chapter 14, Article 6, Division 2, by amending Section 146.0202, and by renumbering Section 146.0210 to Section 146.0207, and adopting the 2004 California Electrical Code and Associated San Diego Municipal Code Amendments.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 4/6/2005, LU&H voted 5 to 0 to approve. (Councilmembers Peters, Atkins, Young, Frye, and Inzunza voted yea.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

CONSENT MOTION BY ATKINS TO INTRODUCE. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- ITEM-51: Extension of Santa Fe Pacific Pipelines, L.P. (SFPP) Franchise.

(Various Community Areas. Districts 1, 3, 5, 6, 7, and 8.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2005-118) RETURNED TO THE CITY MANAGER

Introduction of an Ordinance granting a non-exclusive pipeline franchise to SFPP, L.P. for a period of two years, to install, construct, maintain and operate a pipeline for the transportation of refined petroleum products and other hydrocarbon substances in certain City streets of and within the City of San Diego.

CITY MANAGER SUPPORTING INFORMATION:

In 1962, the City Council adopted an ordinance granting a 40-year franchise to San Diego Pipeline Company for petroleum pipelines within the public streets of the City of San Diego. In 1992, the City Council adopted an ordinance approving the assignment of the franchise to Santa Fe Pacific Pipelines, LP (SFPP). SFPP is a common carrier for various oil companies, and its pipelines carry refined gasoline and jet fuel from the refinery in Wilmington, California, to various distribution points in Southern California. A 10-inch pipeline and a parallel 16-inch pipeline enter the San Diego city limits at Via de la Valle and continue southerly to a tank farm in Mission Valley, which has tanks northwest of San Diego Mission Road and Interstate 15 and northwest of Friars Road and Interstate 15. From there, the 10-inch pipeline continues southerly to a tank farm at the San Diego Harbor.

The franchise, as well as two leases with SFPP for portions of the pipelines that cross City-owned land in Sorrento Valley and Montgomery Field, expired in January 2003. The leases were placed on holdover as permitted under their terms, and the City Council in 2003 approved a 2-year extension of the franchise in lieu of a long-term renewal until the cleanup of two plumes of contaminated soil near the tank farm and Qualcomm Stadium is resolved. A partial settlement was obtained in December, 2004, regarding cleanup of the smaller of the two plumes originating from the tanks north of San Diego Mission Road. Since additional time is needed to address the legal matter concerning remediation of the larger plume originating from the tanks north of Friars Road, a second 2-year extension of the franchise is being requested.

FISCAL IMPACT:

Franchise fees, which are set by the Public Utilities Commission, average about \$23,000 annually and are deposited into the General (100) Fund.

Herring/Griffith/PTC

Staff: Paul Crawford – (619) 236-5952
Shannon M. Thomas – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:29 p.m.)

* ITEM-100: FY 2005 De-Appropriation of Funds 41500 Capital Improvement Project Funds.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1248) ADOPTED AS RESOLUTION R-300514

Authorizing the de-appropriation of an amount not to exceed \$35,680,891.28 from Fund No. 41500, Capital Improvement Projects, as set forth in the attached schedule, to be reappropriated in future fiscal years.

CITY MANAGER SUPPORTING INFORMATION:

The Fiscal Year 2005 de-appropriations reflect the curtailment of the Water Department CIP as previously described in City Manager's Report No. 05-027 of January 27, 2005. Without access to the financial markets it was planned that new construction projects would not be awarded and that existing funding and resources would be directed to ongoing projects, and to fund in Fiscal Year 2006 the large phase funded contracts for the treatment plants and major pipelines.

In order to meet the Water CIP funding objectives through Fiscal Year 2006, this action provides for the de-appropriation of certain projects funds identified from the curtailment of the CIP and makes them available for the projects designated in the Fiscal Year 2006 CIP.

In Fiscal Year 2005 it is anticipated that approximately \$104.3 million will be expended on the Water CIP and that, an additional \$65.4 million will be encumbered or obligated but unexpended at the end of the fiscal year. \$35.7 million will not be required as a result of the curtailment of the CIP. This action is to reduce the continuing Fiscal Year 2005 appropriations of the Water Department CIP by this amount. The following reflects the summary of the adjustments to the existing project appropriations.

	FY 2005 Total Estimated Expenditures	FY 2005 De-Appropriation	FY 2005 Continuing Funding
Pipelines	\$ 20.3M	\$13.4M	\$19.7M
Water Treatment	\$ 53.8M	\$ 1.2M	\$10.8M
Pump Stations	\$ 1.1M	\$ 1.4M	\$.3M
Reclaimed Water	\$ 7.3M	\$ 3.1M	\$ 8.7M
Water Storage	\$ 15.2M	\$ 6.9M	\$ 4.6M
Miscellaneous	\$ 3.9M	\$ 5.6M	\$ 7.2M
Program Management/Contingency	\$ 2.7M	\$ 4.1M	\$ 9.1M
<u>Emergency CIP</u>	<u>\$ 0.0M</u>	<u>\$ 0.0M</u>	<u>\$ 5.0M</u>
<u>TOTALS</u>	<u>\$104.3M</u>	<u>\$35.7M</u>	<u>\$65.4M</u>

In May 2005, the Public Utilities Advisory Commission (PUAC) approved of this de-appropriation strategy.

FISCAL IMPACT:

Previously approved funds in Water Fund 41500 will be reduced by \$35,680,891.28 in Fiscal Year 2005.

Mendes/Belock/KAR

Staff: Charles Yackly – (619) 533-6692
John F. Kirk – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

CITY MANAGER'S RECOMMENDATION:

(R-2005-1263) ADOPTED AS RESOLUTION R-300515

CITY MANAGER SUPPORTING INFORMATION:

FISCAL IMPACT:

Mendes/Boekamp/DZ

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-102: Fox Canyon Park Acquisition.

(See City Manager Report CMR-05-130. Mid-City/City Heights Community Area. District 7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1229) ADOPTED AS RESOLUTION R-300516

Authorizing the City Manager to acquire said property rights for the proposed Fox Canyon Park;

Authorizing and approving the expenditure of \$480,000 from CIP-29-596.0, Fox Canyon Park, Mid-City Special Park Fees Fund No. 39094, to purchase approximate 1.9 acre parcel, located in the Mid-City Community of City Heights Plan Area in the neighborhood of Fox Canyon (east of Euclid Avenue, west of Altadena Drive and south of University Avenue).

Aud. Cert. 2500944.

Staff: Carol Chiodo – (619) 236-6725
Debra J. Bevier – Deputy City Attorney

FILE LOCATION: DEED F-9912

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-103: Memorandum of Understanding (MOU) with the San Diego County and the San Diego County Water Authority for the Integrated Regional Water Management Grant Program.

(See City memorandum from Frank Belock, Jr. dated 4/25/2005.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-1224) ADOPTED AS RESOLUTION R-300517

Authorizing the City Manager, or his duly authorized designee, to execute a Memorandum of Understanding between the City of San Diego, the County of San Diego, and the San Diego County Water Authority for the Integrated Regional Water Management Grant Program (MOU), together with any reasonably necessary modifications or amendments thereto which do not increase MOU scope or cost to City and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of the MOU;

Authorizing the expenditure of \$100,000 from Water Revenue Fund 41500, solely and exclusively, for the purpose of providing funds to implement the MOU;

Authorizing the City Manager, Water Department Director, or designee, to take all necessary actions to implement the MOU and secure Program grant funding, including conducting negotiations and executing documents necessary for receipt, expenditure, and/or distribution of funds awarded as a result of participating in the Program;

Authorizing the City Auditor and Comptroller to establish one or more special interest-bearing funds for the Program grant(s);

Authorizing the City Auditor and Comptroller to appropriate and expend Program grant monies, contingent upon receipt of one or more fully executed Program grant agreements.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 5/4/2005, NR&C voted 4 to 0 to approve the City Manager's recommendation.

(Councilmembers Young, Maienschein, Frye, and Madaffer voted yea.)

SUPPORTING INFORMATION:

In November 2002, California Voters passed Proposition 50, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act which, among other things, authorized the Legislature to appropriate funding for competitive grants for Integrated Regional Water Management (IRWM) projects. The intent of the IRWM Grant Program (Program) established in accordance with Prop. 50 is to encourage integrated regional strategies for management of water resources. Competitive grant funding would be available for projects that protect communities from drought, protect and improve water quality, and improve local water security by reducing dependence on imported water. Additionally, the IRWMP could also provide the framework for seeking future state and federal funds for regional water management projects. Approximately \$380 million is currently available for implementation of IRWM projects in two funding cycles.

The Program guidelines require the creation of a regional water management group (RWM Group), development of an IRWM plan, project implementation proposals, and a memorandum of understanding (MOU) between the RWM Group members to administer grant applications and awards. The City of San Diego (City), the County of San Diego (County), and the San Diego County Water Authority (Water Authority) are interested in forming a RWM Group and pursuing grant funding through the Program. (See April 25, 2005 memo to NR&C for further details.)

This action would authorize the City Manager or designee to execute an MOU between the City, County, and Water Authority in order to pursue IRWM Grant Program funding. In addition, this action would authorize the expenditure of \$100,000 to cover the City's equal share of funding to implement the MOU, and other actions necessary to obtain Program funding.

FISCAL IMPACT:

\$100,000 from Water Revenue Fund 41500

Mendes/Belock/BC

Aud. Cert. 2501022.

Staff: Bob Collins – (619) 527-3935
Lori W. Girard – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:14 p.m. – 3:14 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-104: Easement Grant to San Diego Gas and Electric Company for Underground Utility Facilities Along Boundary Street 20A Conversion.

(Mountain View Community Area. District 4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1209) ADOPTED AS RESOLUTION R-300518

Authorizing the City Manager, or designee, to execute a deed conveying to San Diego Gas and Electric Company, an easement to be used for underground electrical transmission and distribution facilities and appurtenances and related purposes, along a segment of Boundary Street, affecting a portion of Mountain View Park, described as affecting a portion of Pueblo Lot 1344 of the Pueblo Lands of San Diego County, according to Miscellaneous Maps thereof No. 36, filed in the Office of the County Recorder of San Diego County, as set forth in the easement deed.

CITY MANAGER SUPPORTING INFORMATION:

San Diego Gas & Electric Company (SDG&E) has requested an easement for underground facilities affecting a portion of Mountain View Park. The easement will provide the necessary rights for SDG&E to convert existing overhead distribution facilities to underground facilities. The total area of the easement is approximately 590 square feet.

The easement has been valued by City valuation staff to be worth \$1,800.

Since this project is a 20A conversion, and it benefits Mountain View Park and the Mountain View community, no compensation is requested for the easement. An Easement Processing Fee of \$1,590 has been deposited to Fund 100.

FISCAL IMPACT:

Processing Fee of \$1,590 has been deposited to Fund 100.

Herring/Griffith/ACG

Staff: Chris Hargett – (619) 236-6766
Elisa A. Cusato – Deputy City Attorney

FILE LOCATION: DEED F-9913

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-105: Two actions related to Business Improvement District Budgets FY 2006.

(Centre City, College Area, Greater North Park, La Jolla, Mid-City, Midway, Mission Beach, Ocean Beach, Old San Diego, Pacific Beach, San Ysidro, Southeast San Diego, and Uptown Community Areas. Districts 1, 2, 3, 4, 7, and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-1083) ADOPTED AS RESOLUTION R-300519

Accepting the Fiscal Year 2006 Budget Reports for the existing Business Improvement Districts.

Subitem-B: (R-2005-1084) ADOPTED AS RESOLUTION R-300520

Resolution of Intention to levy and collect annual assessments from businesses within the established Business Improvement Districts for Fiscal Year 2006, and noticing the public hearing.

CITY MANAGER SUPPORTING INFORMATION:

Business Improvement Districts (BIDS) are authorized to State law to assess businesses for the cost of certain activities that will benefit those businesses. These activities are generally promotional in nature. Once a BID is established the City collects the assessments and disburses them to an appropriate entity representing the district pursuant to an annual operating agreement. These are currently 18 active districts in the City of San Diego: Adams Avenue, City Heights, College Area, Diamond, Downtown, El Cajon Blvd. Central, El Cajon Blvd. Gateway, Gaslamp, Hillcrest, La Jolla, Little Italy, Midway, Mission Hills, North Park, Ocean Beach, Old Town, Pacific Beach, and San Ysidro.

State law requires that the City Council annually adopt a budget for each BID and hold a public hearing to levy appropriate assessments. The actions being taken today are: accept the budget reports and set Tuesday, July 19, 2005, for the public hearing to levy the proposed assessment for each BID for FY 2006.

At the public hearing, the City Council may confirm the acceptance of the budget reports, adopt the resolution authorizing the assessments and authorize the City Manager to enter into agreements with the respective associations to manage the BIDs.

FISCAL IMPACT:

Approximately \$1.3 million of BID assessments will be collected in FY 2006 by City on behalf of BIDs and disbursed back to the BIDs. There is no net fiscal impact.

Oppenheim/Cunningham/MDB

Staff: Meredith Dibden-Brown – (619) 533-7530

FILE LOCATION: STRT-L-25 (32)

COUNCIL ACTION: (Time duration: 3:00 p.m. – 3:13 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-106: Additional Funding for Rigel Street Bridge Over Chollas Creek.

(Barrio Logan Community Area. District 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1234) ADOPTED AS RESOLUTION R-300521

Authorizing the City Manager to apply for and accept a total of \$497,711 from the Highway Bridge Rehabilitation and Replacement (HBRR) Program for additional construction funding for CIP-52-661.0, Rigel Street Bridge over Chollas Creek, Fund 38729, HBRR;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2005 Capital Improvements Program Budget for CIP-52-661.0, Rigel Street Bridge over Chollas Creek, by \$497,711 in Fund 38729, HBRR, contingent upon receipt of an FNM-76 (Version E-76) Caltrans Funding Authorization;

Authorizing the City Auditor and Comptroller to appropriate and expend \$497,711 from CIP-52-661.0, Rigel Street Bridge over Chollas Creek, Fund 38729, HBRR, for the purpose of constructing the Rigel Street Bridge over Chollas Creek, contingent upon receipt of an FNM-76 (Version E-76) Caltrans Funding Authorization and upon the City Auditor and Comptroller certifying that the necessary funds are on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller to transfer \$158,046 from CIP-58-007.0, Other City Costs for Street Projects, to CIP-52-661.0, Rigel Street Bridge over Chollas Creek, within Fund 30245, Capital Outlay Fund;

Authorizing the City Auditor and Comptroller to transfer \$40,113 from CIP-58-007.0, Other City Costs for Street Projects, to CIP-52-661.0, Rigel Street Bridge over Chollas Creek, within Fund 30306, TransNet;

Authorizing the City Auditor and Comptroller to transfer \$40,149 from CIP-52-519.0, Bridge Rails-Citywide, to CIP-52-661.0, Rigel Street Bridge over Chollas Creek, within Fund 30306, TransNet;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$238,308 from CIP-52-661.0, Rigel Street Bridge over Chollas Creek: \$158,046 from Fund 30245, Capital Outlay Fund, and \$80,262 from Fund 30306, TransNet, for the purpose of constructing the Rigel Street Bridge over Chollas Creek, contingent upon the City Auditor and Comptroller certifying that the necessary funds are on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller, upon direction of the City Manager, to reallocate funding sources between TransNet and Commercial Paper funded projects as may be appropriate in order to maximize the use of TransNet cash and reduce the use of Commercial Paper funding for CIP-52-661.0, Rigel Street Bridge over Chollas Creek;

Authorizing the City Auditor and Comptroller to transfer excess budgeted funds, if any, to the appropriate reserves upon advice from the administering department.

CITY MANAGER SUPPORTING INFORMATION:

The proposed project will replace the Rigel Street Bridge over Chollas Creek with a new bridge approximately 62 feet in length. The existing wooden bridge was built in 1930 and was determined by Caltrans to be structurally deficient. This bridge was closed due to structural failure and is in need of replacement. This project will provide a two span concrete bridge including approach roadways and associated drainage improvements. The proposed bridge will provide one travel lane, a parking lane, and a sidewalk in each direction.

On February 2, 2004, the City Council approved the plans, specifications, advertising, and funding for construction of the Rigel Street Bridge over Chollas Creek. The bids were opened on September 24, 2004, with 3 bids submitted. All bids were in excess of the engineer's estimate of \$717,702 due to increased construction costs. In addition, the apparent low bidder withdrew his bid due to an administrative error and the second and the third low bidder were deemed non-responsive because they did not meet the Federal Disadvantaged Business Enterprise (DBE) goal of 5%. Hence, it was necessary to re-bid the project. This action will allow the City Manager to accept additional Highway Bridges Rehabilitation and Replacement Funds of \$497,711 and transfer \$238,308 to be used as matching funds for the grant.

FISCAL IMPACT:

The estimated total project cost is \$2,119,535; of this amount, \$1,383,516 has been previously authorized (R-298832). The additional funding required for this project is \$736,019, of which \$497,711 is available in Fund 38729, HBRR; \$198,159 is available in CIP-58-007.0, Other City Costs for Street Projects; and \$40,149 is available in CIP-52-519.0, Bridge Rails-Citywide.

No expenditures are anticipated to be incurred against commercial paper at this time. In an effort to defer the issuance of commercial paper, available cash in the amount of \$80,262 will be identified through our cash management process.

Mendes/Boekamp/DZ

Aud. Cert. 2500976.

Staff: Dave Zoumaras – (619) 533-3138
Jeremy A. Jung – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-107: Competitive Funding for Azalea Neighborhood Park Picnic Area Development.
(Mid-City Community Area. District 3.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1207) ADOPTED AS RESOLUTION R-300522

Authorizing the City Manager to make a competitive grant application for \$70,000 to the State of California 2006 Land and Water Conservation Fund program for construction of Azalea Neighborhood Park Picnic Area Development (Project), CIP-29-885.0;

Authorizing the City Manager to make application to the State of California in an amount not to exceed \$80,000 in Roberti-Z'berg-Harris Per Capita funds under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 for construction of Azalea Neighborhood Park Picnic Area Development, CIP-29-885.0;

Authorizing the City Manager to take all necessary actions to secure grant funds and enter into agreements for this project;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend funds if the grants are secured;

Authorizing the City Auditor and Comptroller to establish special interest-bearing account for the grants;

Amending the Fiscal Year 2006 Capital Improvements Program by adding CIP-29-885.0, Azalea Neighborhood Park Picnic Area Development;

Amending the Fiscal Year 2006 Capital Improvements Program Budget by increasing the budget in an amount not to exceed \$150,000 for CIP-29-885.0, Azalea Neighborhood Park Picnic Area Development, upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$150,000 from CIP-29-885.0, Azalea Neighborhood Park Picnic Area Development, upon receipt of a fully executed grant agreement;

Declaring the City Council certifies that it has reviewed, understands, and agrees to the general provisions contained in the contracts shown in the Land Water Conservation procedural guide, including that the City has or will have sufficient funds to operate and maintain the project(s), and that the City has or will have available, prior to commencement of any work on the project, the 100 percent Match;

Declaring the City Council certifies that the project conforms to the recreation element of the City's General Plan, and is completely compatible with the land use plans of those jurisdictions immediately surrounding the Project.

CITY MANAGER SUPPORTING INFORMATION:

The State of California oversees the statewide distribution of the Federal Land and Water Conservation Fund (LWCF) Grant-In-Aid Program, which provides funds to develop facilities for public outdoor recreation purposes. The LWCF program offers grants on a competitive basis and will fund up to 50% of the cost to develop facilities that support outdoor recreation.

In March 2002, California voters approved Proposition 40, the \$2.6 billion 2002 State Resources Bond "Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 (bond)". On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the \$11,063,430 Per Capita/RZH Per Capita funds to each council district, with a portion of the funding set aside for projects with citywide and regional impact. On February 20, 2004, the City entered into an umbrella contract with the State of California for the 2002 Resources Bond Act Per Capita/RZH Per Capita Grant Program.

This action authorizes the City Manager to submit a \$70,000 competitive grant proposal to the State of California Department of Parks and Recreation. Based on review of the LWCF program criteria, this project was identified as highly competitive for possible funding. The action also authorizes the City Manager to apply for \$80,000 from the Council District 3 portion of the City's 2002 Resources Bond RZH Per Capita funding allocated to Council District 3 as a grant match.

If funded, this proposal will provide for construction of a shaded picnic area with several dining amenities, including a barbeque, hot-coal receptacle, and four six-person picnic tables at Azalea Neighborhood Park. Azalea Neighborhood Park is located in a densely populated, multi-cultural community with critical shortages of developed parkland and no shaded picnic areas within the park's service area.

FISCAL IMPACT:

Azalea Neighborhood Park Picnic Area: This grant will request up to \$70,000 from the Land Water Conservation Program to design and develop the Azalea Neighborhood Park Picnic Area. If received, the grant plus the required matching funds to be approved by this action will fully

fund this phase of the project. The match consists of \$80,000 from the 2002 Resources Bond RZH Per Capita. The anticipated ongoing operations and maintenance costs for these improvements are minimal and can be absorbed by existing staff within the current operating budget.

Herring/Oppenheim/AP

Staff: Nigel Brookes – (619) 525-8226
Shannon M. Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-108: Two actions related to Proposed Council Policy on Tree Protection.

(See City Manager Reports CMR-05-123 and CMR-05-138 (this report was not available at Committee); and letter from Nancy J. Hughes dated 5/24/2005.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2005-1272) ADOPTED AS RESOLUTION R-300523

Establishing Council Policy pertaining to tree protection as set forth in the Council Policy filed in the Office of the City Clerk;

Instructing the City Clerk to add the aforesaid to the Council Policy Manual.

Subitem-B: (R-2005-1273) ADOPTED AS RESOLUTION R-300524

Authorizing the City Manager to include in the Fiscal Year 2005-2006 Budget an amount not to exceed \$66,000 for the addition of one Code Compliance Officer, to be funded by an amount not to exceed \$33,000 from the Community Development Block Grant Citywide Allocation and an additional amount not to exceed \$33,000 from the Tree Damage Replacement Fund, contingent upon the City Auditor and Comptroller first certifying that such funds are available once the Fiscal Year 2005-2006 Annual Appropriation ordinance is approved.

RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S RECOMMENDATION:

On 5/25/2005, Rules voted 4 to 0 to approve City Manager's recommendations contained in CMR-05-123 with the following changes to page 3 of 5 of the Council Policy: 1) to Section B3 add to the beginning of the first sentence, "To the extent budgetary resources are available," 2) to Section C9 add an additional sentence, "The removal of the protected tree will be replaced," and 3) authorizing the funding of one (1) code-compliance officer with 50% to be paid from Citywide CDBG Reserve, and 50% to be paid from the Tree Damage Revenue Recovery Replacement Fund." (Councilmembers Peters, Maienschein, Madaffer, and Mayor Murphy voted yea. Councilmember Zucchet not present.)

Staff: Luis Generoso – (619) 533-5258
John F. Kirk – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:48 p.m. – 2:59 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



* ITEM-109: Appointment and Reappointments to the Science and Technology Commission.

(See memorandum from Mayor Murphy dated 5/27/2005, with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1267) ADOPTED AS RESOLUTION R-300525

Council confirmation of the following appointment and reappointments by the Mayor of the City of San Diego to serve as members of the Science and Technology Commission for terms indicated:

<u>NAME</u>	<u>TERM EXPIRES</u>
Luis X. Avila (Mission Valley, Dist. 6) (Replacing Scott Randall, whose term expired)	May 31, 2007
Hui Cai (Carmel Valley, Dist. 1) (Reappointment)	May 31, 2007
Jon Cohen (Carlsbad) (Reappointment)	May 31, 2007
Scott Corlett (Scripps Ranch, Dist. 5) (Reappointment)	May 31, 2007
Martha Dennis (La Jolla, Dist. 1) (Reappointment)	May 31, 2007
Thomas A. Dillon (Point Loma, Dist. 2) (Reappointment)	May 31, 2007
Susan Myrland (La Mesa) (Reappointment)	May 31, 2007
Gail K. Naughton (Downtown San Diego, Dist. 1) (Reappointment)	May 31, 2007

Determining pursuant to Council Policy 00-13, for purposes of deliberation and consideration of reappointment, that Jon Cohen and Susan Myrland are residents of San Diego County, but not the City of San Diego, and have unique qualifications to serve as members of the Board, therefore, a conscious exception to Council Policy 00-13 is hereby declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-110: Appointment to the San Diego City Employees Retirement System Board of Administration.

(See memorandum from Mayor Murphy dated 5/20/2005, with resume attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1236) ADOPTED AS RESOLUTION R-300526

Appointing Richard M. Kipperman, who resides in La Mesa, to serve as a member of the City Employees Retirement System Board of Administration, to replace Theodore D. Roth, who has resigned, for a term ending March 31, 2007;

Determining pursuant to Council Policy 000-13, for purposes of deliberation and consideration of appointment, Richard M. Kipperman is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Board, therefore, a conscious exception to Council Policy 000-13 is hereby declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:30 p.m. – 2:48 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-nay, Young-yea, Maienschein-nay, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-111: Excusing Deputy Mayor Zucchet from Attending the Rules, Finance, and Intergovernmental Relations Meeting of May 25, 2005.

DEPUTY MAYOR ZUCCHET'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1261) ADOPTED AS RESOLUTION R-300527

Excusing Deputy Mayor Michael Zucchet from attending the regularly scheduled Rules, Finance, and Intergovernmental Relations meeting of May 25, 2005.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-112: Metropolitan Community Church of San Diego 35th Anniversary Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-1276) ADOPTED AS RESOLUTION R-300528

Recognizing the efforts of the Metropolitan Community Church of San Diego over the past 35 years to provide a spiritual home and center for social activism for the lesbian, gay, bisexual, and transgender (LGBT) community and to all open affirming people of faith;

Proclaiming June 5, 2005, to be “Metropolitan Community Church of San Diego 35th Anniversary Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-200: Fiscal Year 2005 Year-End Financial Status and Budget Adjustments.

(See City Manager Report CMR-05-134.)

CITY MANAGER’S RECOMMENDATION:

Introduce and adopt the following ordinance:

(O-2005-136) INTRODUCED AND ADOPTED AS ORDINANCE
O-19388 (New Series)

Introduction and adoption of an Ordinance amending Ordinance No. O-19301 (New Series), as amended, entitled “An Ordinance Adopting The Annual Budget For The Fiscal Year 2004-2005 And Appropriating The Necessary Money To Operate The City Of San Diego For Said Fiscal Year” by amending Document No. O-19301, as amended and adopted therein, by authorizing certain year end adjustments including making additional appropriations and transfers that may be necessary to balance fund carryovers and expenditures/appropriations for Fiscal Year 2006.

NOTE: Today’s action is the second public hearing and the introduction and adoption of the Ordinance. See Item S500 on the docket of Tuesday, June 7, 2005, for the first public hearing.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 8:39 p.m. – 8:41 p.m.)

MOTION BY FRYE TO INTRODUCE, DISPENSE WITH THE READING, AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-250: Notice of Pending Final Map Approval – Winona Square.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “Winona Square” (T.M. No. 93149/PTS No. 69646), located northeasterly of El Cajon Boulevard and Winona Avenue in the Mid-City: Kensington-Talmadge Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-251: **Notice of Pending Final Map Approval – Monarch at Carmel Valley.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “Monarch at Carmel Valley” (T.M. No. 29071/PTS No. 59897), located northwesterly of Carmel Creek Road and Carmel Country in the Carmel Valley Community Plan Area in Council District 1, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.



ITEM-S400: C.W. Dean’s Record City Day.

(Continued from the meeting of June 6, 2005, Item 109, at the request of Councilmember Young, so that C.W. Dean and family may be present.)

COUNCILMEMBER YOUNG’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1212) ADOPTED AS RESOLUTION R-300529

Recognizing the efforts of the Dean family in giving back to the community, as well as their professionalism, their kind spirit, and their passion in connecting with people through music;

Proclaiming May 31, 2005, to be “C.W. Dean’s Record City Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:29 p.m.)

MOTION BY YOUNG TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 8:41 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 8:41 p.m.)